

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REBECCA WU,

Plaintiff,

v.

COST KERESTENZIS, *et al.*,

Defendants.

Case No. 2:24-cv-3353-DJC-JDP (PS)

ORDER

Plaintiff, proceeding without counsel, brings this action against various defendants, alleging that they violated her rights by terminating her teaching job. ECF No. 1 at 6. Her complaint cannot proceed as articulated. I will dismiss the complaint and give plaintiff a chance to amend her complaint before recommending dismissal of the case. I will also grant her application to proceed *in forma pauperis*, ECF No. 2, which makes the showing required by 28 U.S.C. §§ 1915(a)(1) and (2).

Screening and Pleading Requirements

A federal court must screen the complaint of any claimant seeking permission to proceed *in forma pauperis*. See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *Id.*

1 A complaint must contain a short and plain statement that plaintiff is entitled to relief,
 2 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its
 3 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
 4 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.
 5 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
 6 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
 7 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
 8 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
 9 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
 10 n.2 (9th Cir. 2006) (en banc) (citations omitted).

11 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
 12 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
 13 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
 14 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
 15 However, “‘a liberal interpretation of a civil rights complaint may not supply essential elements
 16 of the claim that were not initially pled.’” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
 17 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

18 Analysis

19 The particulars of plaintiff’s complaint are somewhat obscured by length and lack of
 20 organization, but it is apparent that the claims at issue here have been the subject of substantial
 21 and, in some cases, ongoing litigation in state court. Plaintiff acknowledges this explicitly. ECF
 22 No. 1 at 36-38. Some of this litigation has concluded, but at least four cases appear ongoing
 23 insofar as they are labelled “not final.” *Id.* This state litigation, both finalized and ongoing,
 24 presents obstacles to the current litigation. The ongoing cases implicate the abstention doctrine in
 25 *Younger v. Harris*, 401 U.S. 37, 43-54 (1971), which commands federal courts to refrain from
 26 interfering in parallel state court proceedings in most circumstances. The finalized cases
 27 potentially implicate the *Rooker-Feldman* doctrine, which “prohibits a federal district court from
 28 exercising subject matter jurisdiction over a suit that is a de facto appeal from a state court

1 judgment.” *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004). Plaintiff has filed a
2 similar case in this district, and the magistrate judge in that case made similar findings on
3 screening. *See Wu v. Twin Rivers United Educators*, No. 2:24-cv-2707-DAD-AC (E.D. Cal. Oct.
4 29, 2024) at ECF No. 3.

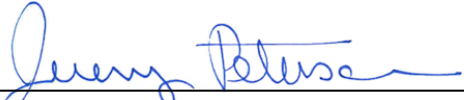
5 Accordingly, the complaint is dismissed for the reasons stated above. I will allow plaintiff
6 a chance to amend her complaint before recommending that this action be dismissed. Plaintiff
7 should take care to add specific factual allegations against each defendant and to better organize
8 her complaint. She must also explain why her claims are not barred by the doctrines discussed
9 above. If plaintiff decides to file an amended complaint, the amended complaint will supersede
10 the current one. *See Lacey v. Maricopa Cnty.*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc).
11 This means that the amended complaint will need to be complete on its face without reference to
12 the prior pleading. *See* E.D. Cal. Local Rule 220. Once an amended complaint is filed, the
13 current one no longer serves any function. Therefore, in an amended complaint, as in the
14 original, plaintiff will need to assert each claim and allege each defendant’s involvement in
15 sufficient detail. The amended complaint should be titled “First Amended Complaint” and refer
16 to the appropriate case number. If plaintiff does not file an amended complaint, I will
17 recommend that this action be dismissed.

18 Accordingly, it is hereby ORDERED that:

- 19 1. Plaintiff’s request for leave to proceed *in forma pauperis*, ECF No. 2, is GRANTED.
 - 20 2. Plaintiff’s complaint, ECF No. 1, is DISMISSED with leave to amend.
 - 21 3. Within thirty days from service of this order, plaintiff shall file either (1) an amended
22 complaint or (2) notice of voluntary dismissal of this action without prejudice.
 - 23 4. Failure to timely file either an amended complaint or notice of voluntary dismissal may
24 result in the imposition of sanctions, including a recommendation that this action be dismissed
25 with prejudice pursuant to Federal Rule of Civil Procedure 41(b).
 - 26 5. The Clerk of Court shall send plaintiff a complaint form with this order.
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2 IT IS SO ORDERED.

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4 Dated: February 27, 2025


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE